

**Guidance for
Environmental Cleanup and Compliance Agreements
and Related Milestones**



**Office of Environmental Management
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Table of Contents

	<i>Page</i>
List of Acronyms	ii
1.0 Introduction	1
1.1 Purpose	2
1.2 Scope	3
1.3 Organization of the Remainder of This Document	4
2.0 Overview	4
Figure 1: Flow Chart	6
3.0 Review and Approval Process	7
4.0 Roles and Responsibilities	16
4.1 Field Focal Point	16
4.2 Headquarters Focal Point	17
4.3 EM-10	18
4.4 Headquarters Elements	18
5.0 Management and Oversight	20
5.1 Repository of Agreements	20
5.2 Implementation	20
5.3 Process Oversight	20
5.4 Performance Tracking and Analysis	20
 <i>APPENDICES</i>	
A. Headquarters and Field Focal Points	21
B. Funding Availability Statement/Waiver Process	23

List of Acronyms

ADAS	Associate Deputy Assistant Secretary
AMEM	Assistant Manager for Environmental Management
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFO	Chief Financial Officer
DAS	Deputy Assistant Secretary
DOE	Department of Energy
EH	Office of the Assistant Secretary for Environment, Safety, and Health
EM	Office of the Assistant Secretary for Environmental Management
EM-1	Assistant Secretary for Environmental Management
EM-10	Office of Policy, Planning, and Budget
EM-20	Office of Integration and Disposition
EM-30	Office of Site Closure
EM-40	Office of Project Completion
EM-50	Office of Science and Technology
EPA	Environmental Protection Agency
FFCA	Federal Facility Compliance Act
GC-50	Office of the Deputy General Counsel for Environment and Civilian and Defense Nuclear Programs
GC-51	Office of the Assistant General Counsel for Environment
HQ	Headquarters Environmental Management
IPABS	Integrated Planning, Accountability, and Budget System
NOV	Notice of Violation
OD	Office Director
OECM	Office of Engineering and Construction Management
PBS	Project Baseline Summary
RCRA	Resource Conservation and Recovery Act
STP	Site Treatment Plan

1.0 Introduction

The Department of Energy is cleaning up the environmental legacy from over 50 years of nuclear weapons production, a period when environmental standards and laws were not what they are today. In 1989, the Department of Energy created the Office of Environmental Management (EM) to mitigate the risks and hazards posed by the legacy of nuclear weapons production and research. The most ambitious and far ranging of EM's missions is dealing with the environmental legacy of the Cold War. Cleanup involves the safe treatment, storage, and final disposal of radioactive wastes, surplus nuclear materials, and spent nuclear fuels that remain at the sites of the nation's nuclear weapons facilities and energy research and development sites.

EM's field work is performed at 113 sites, which is managed by 11 Operations Offices. Most EM work is subject to extensive and detailed environmental agreements. There are over 100 environmental agreements addressing cleanup activities across the Department.

- C Headquarters EM (henceforth referred to as Headquarters) involvement includes administering national policy, addressing cross-site issues, and advocating, developing, and allocating the budget for the EM program.
- C The field has the responsibility for managing site work and working with regulators. Coordination between Headquarters and field ensures site priorities and budgets are aligned with national priorities.

This Guidance has been developed to enhance Headquarters/Field coordination in accomplishing cleanup activities with funding available for EM funded activities. The sooner in the process this coordination takes place, the more effective the Department can be in meeting commitments and accomplishing work. Effective budget coordination ensures that either Departmental resources are available or that seeking additional resources is a priority. Timely coordination on new or changed work scope and schedules will facilitate resolution of cross site issues, as well as, effective accomplishment of the EM mission.

This "Guidance for Environmental Cleanup and Compliance Agreements and Related Milestones" (henceforth called "Guidance") updates the existing process for review of environmental agreements and related milestones. As such, it supersedes the June, 1997 Guidance and March, 2000 Revised Guidance, each titled "Review and Approval Guidance for Environmental Cleanup and Compliance Agreements." This Guidance is not intended to change existing delegation of authorities or any other existing guidance or policy relating to entering into new environmental agreements or the Department's obligation to comply with existing agreements.

Specifically:

- C This Guidance does not alter the Department's commitment to comply with its

obligations under existing environmental cleanup and compliance agreements (henceforth called environmental agreements), or Federal and State laws and regulations, including the obligation to request sufficient funding to meet such requirements.

- C This Guidance does not change the responsibility of Field managers for negotiating, signing, and executing environmental agreements and milestones, subject to Headquarters review and approval procedures.
- C This Guidance does not require the renegotiation of existing agreements or milestones.
- C This guidance does not assert authority, direction, or control over NNSA employees performing an NNSA function.

1.1 Purpose

This Guidance sets forth a process for negotiating, reviewing, approving, and managing oversight of:

- C New environmental agreements
- C Modified environmental agreements
- C Other compliance related documents (see Section 1.2)
- C New and modified enforceable milestones related to environmental agreements

The goals of this Guidance are to provide improved assurance that new and modified environmental agreements and new and modified enforceable milestones:

- C Are achievable
- C Are consistent with existing policies
- C Will not adversely impact other sites

The Office of Environmental Management (EM) developed this Guidance, with DOE field office, Lead Site Office, and other Headquarters offices. The Guidance provides an approach to addressing the review, approval, and management of environmental agreements and milestones. This approach allows flexibility in the implementation of the Guidance, while ensuring that environmental agreements and milestones which meet specific criteria (defined in Section 3.0, Step 2) will be raised to the attention of Headquarters before DOE enters into commitments regarding such environmental agreements and milestones. The purpose of Headquarters involvement is to ensure that:

- C The proposed commitments are technically sound
- C The proposed commitments have been evaluated with consideration given to future funding requirements and budget scenarios
- C The complex-wide impacts and national policy implications of the proposed commitments decisions are considered and acceptable

All field offices have developed strategies to achieve the EM mission. One of the principles underlying the EM program is creating a collaborative working relationship between DOE and its regulators and stakeholders. As field offices continue their cooperative efforts with regulators and stakeholders to document and implement cleanup and compliance plans, occasions arise requiring the modification of existing environmental agreements.

1.2 Scope

This Guidance applies to all environmental agreements and enforceable milestones developed in conjunction with the U.S. Environmental Protection Agency (EPA) and/or state regulatory authorities, and to all new and/or modified environmental agreements or enforceable milestones. For purposes of this Guidance, environmental agreements are defined as documents into which DOE and at least one other governmental entity have entered to achieve enforceable commitments related to environmental compliance or cleanup. A few examples of environmental agreements are the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement), the Idaho National Engineering and Environmental Laboratory - Spent Fuel Settlement Agreement, and the Site Treatment Plan for Mixed Wastes on the U.S. Department of Energy Oak Ridge Reservation. In general, environmental agreements and milestones addressed by this Guidance include:

- C Federal Facility Compliance Act (FFCA) Site Treatment Plans (STP) and Orders
- C Federal Facility Agreements
- C Administratively or Judicially enforceable documents that affect the EM Baseline (e.g., Consent Decrees, Administrative or Consent Orders, etc.)
- C Resource Conservation and Recovery Act (RCRA) closure, post closure, and corrective action permits /orders

1.3 Organization of the Remainder of This Document

The remainder of this Guidance is organized into four sections and two appendices. **Section 2** provides a conceptual overview of the review and approval process and introduces a flow chart that illustrates that process. **Section 3** describes the process in detail by delineating what occurs at each step in the process (represented by a box in the flow chart). **Section 4** highlights the roles and responsibilities of the field and EM Headquarters in the review and approval process. **Section 5** outlines how EM will perform management and oversight of the environmental agreement and milestone review, approval, and implementation process. **Appendix A** is a list of current Headquarters and field “focal points.” **Appendix B** contains a funding availability statement, which is a key component of the review and approval process, and a request for funding waiver.

2.0 Overview

This Guidance defines which agreements and milestones exceed specific thresholds and will therefore require Headquarters review and approval. The thresholds fall into two distinct categories, quantitative and qualitative. Based on these thresholds, a field focal point can determine whether an agreement or milestone document requires Headquarters review and/or approval, or if the agreement or milestone may be reviewed and approved in the field (see Section 3.0 for a definition of a focal point). The quantitative thresholds provide clear, non-interpretive criteria, which if met or exceeded, require that the document receive Headquarters review and approval. The qualitative thresholds provide more subjective criteria. The goal of this approach is to ensure Headquarters will be involved with environmental agreements and milestones that are of substantial magnitude or interest, while not overburdening the field (or Headquarters) by sending all documents to Headquarters for review and approval. Once the agreements or milestones are approved, they will be retained in a repository (see Section 5.1).

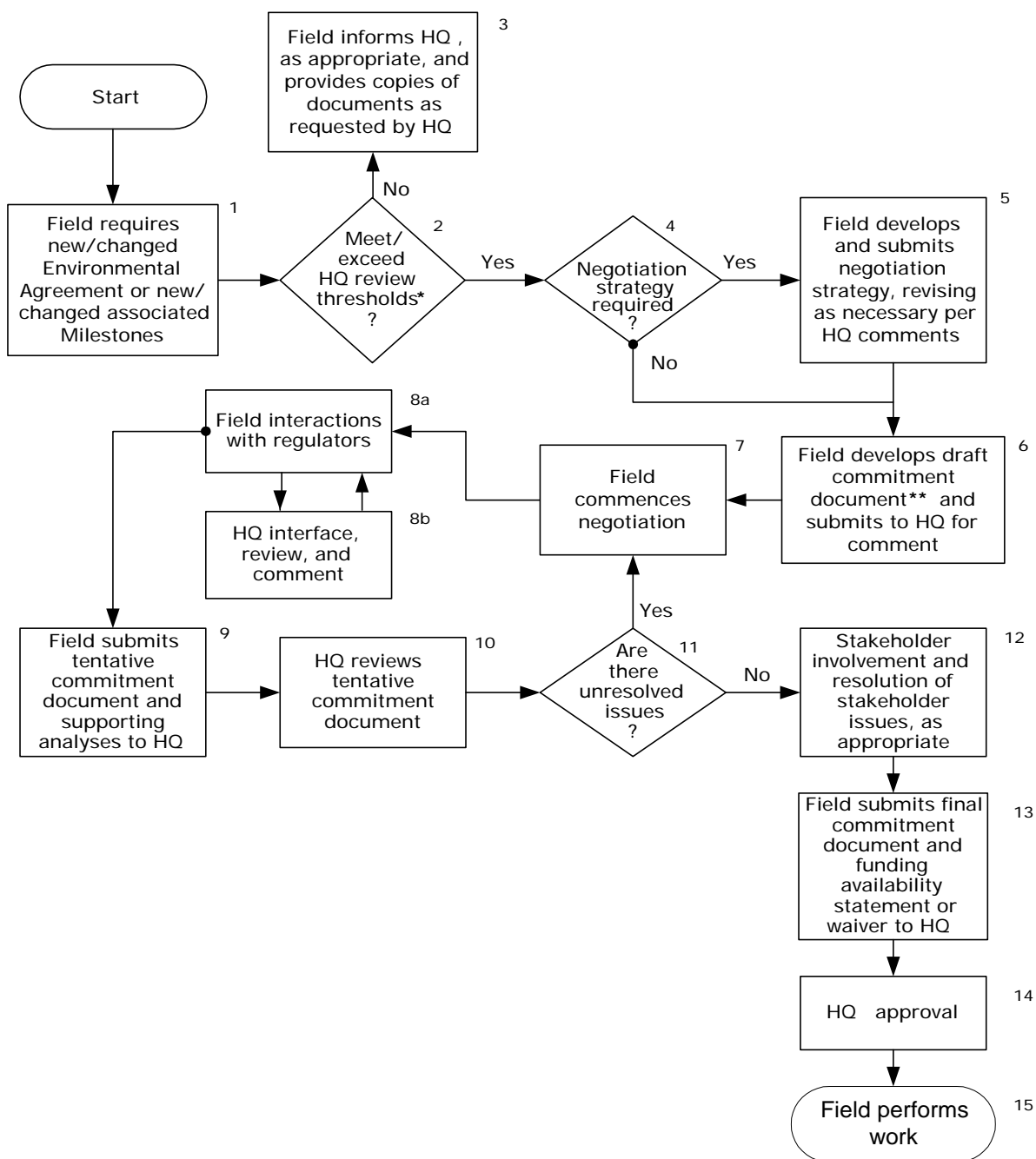
In addition, this Guidance identifies focal points, both at Headquarters and in the field, who will be vested with both the authority and accountability to tailor the review/approval process. The Guidance provides the field the latitude to continue on-going practices that are working well, and the authority to tailor the review/approval process, consistent with established relationships with local regulators. With this authority, comes a corresponding accountability to ensure that field senior management and Headquarters are informed of issues and activities of interest in a timely manner. The field and Headquarters focal points mutually establish document review and approval deadlines in consideration of any pre-existing submittal deadlines established with the regulators. This approach provides the flexibility to coordinate environmental agreements and milestones properly and expeditiously, while also ensuring that all appropriate officials are notified prior to entering into commitments.

Figure 1 is a flow chart depicting the review and approval process. Documents not meeting the Headquarters review and approval thresholds in Step 2 may, at the field focal point’s discretion, be reviewed and approved in the field. Focal points are responsible and accountable for ensuring all appropriate documents are reviewed and approved by appropriate DOE personnel depending on the type, sensitivity, magnitude, and level of interest in the document. The field focal point will send all environmental agreements and milestones that meet the thresholds to the Headquarters focal point.

For documents that meet or exceed a threshold, the Headquarters focal point will determine the appropriate Headquarters offices, in consultation with those offices, that should review or concur on

negotiation strategies, tentative commitment documents, milestones, and final commitment documents. If the documents come to Headquarters, at a minimum, the Headquarters focal point should always ensure that the Chief Financial Officer (CFO) and General Counsel are notified. Each office (e.g., General Counsel, CFO, EM-20, EM-50, etc.) receiving these documents is responsible for raising issues to the attention of their manager, as appropriate. Additionally, for sites/activities that are not EM sites/activities, senior management for the other Programs should be notified. For those sites, field senior management should notify their Program Secretarial Officers. The Headquarters focal point will resolve any issues, and confirm in writing to the field focal point, the approval of the document.

Figure 1:
MILESTONE AND ENVIRONMENTAL AGREEMENT GUIDANCE PROCESS



* If only the baseline change control threshold is exceeded, field resolves the change control issue with Headquarters prior to moving to Step 3

** Commitment Documents include: New/changed Environmental Agreements and associated new/changed Milestones

3.0 Review and Approval Process

This section provides a detailed description of actions taken, the sequence of actions, and those responsible for taking the actions to expeditiously process environmental agreements and milestones. The process will be implemented through individuals who are designated as field focal points and Headquarter focal points. Each focal point provides a “one stop shopping” service for a particular environmental agreement or set of milestones, through which documents and information are conveyed to other field or Headquarters offices. The focal points will also be responsible for expediting the review process outlined herein. It is essential that the field focal point make prudent and timely decisions on informing the Headquarters focal point of substantive issues. It is also essential that the Headquarters focal point be responsive to reviewing, commenting on, and/or approving documents submitted by the field focal point.

The field focal point is the Assistant Manager for Environmental Management (AMEM) or equivalent, at the field office, or the AMEM’s designee. Often this focal point is a project officer or Division Director, and there may be multiple focal points designated for each field office, based on the number of environmental agreements or sets of milestones. In some cases, the AMEM or equivalent will choose to serve as the focal point. The focal point has the authority to determine who is involved with reviewing and approving environmental agreement or milestones in the field. The field focal point will submit environmental agreements and milestones to the Headquarters focal point, in accordance with the thresholds in Step 2 of this process. All environmental agreement or milestones submitted to the Headquarters focal point will also be sent to EM-10 as a courtesy, since EM-10 has responsibility for overseeing process implementation and tracking performance. EM-10's primary role will be to develop corporate statistics and corporate knowledge. Appendix A lists individuals serving as field focal points and Headquarters focal points.

The Headquarters focal point is the Office Director (OD) with field line responsibilities (EM-20, EM-30 and EM-40), or OD’s designee under the Deputy Assistant Secretary (DAS) with responsibility for a particular field office. The OD or designee may assign multiple focal points for each designated field office, based on the number of environmental agreements or sets of milestones. The Headquarters focal point has the responsibility and authority to determine which offices in Headquarters need to be involved with reviewing or concurring in environmental agreement or milestones, in consultation with those offices.

Step 1: Field requires new/changed agreements or new/changed associated milestones.

The field focal point reviews the need for a new or modified environmental agreement or milestone(s).

Step 2: Exceed Headquarters review threshold?

The field focal point determines whether a new or modified environmental agreement or milestone(s) exceeds the following thresholds. The field focal point may wish to consult with the Headquarters focal point prior to a final determination. This will occur at the earliest appropriate time to allow for maximum review and approval time before DOE enters into a commitment. **If the determination is that no**

threshold is exceeded, go to step 3. If only the baseline change control threshold is exceeded, the field resolves the change control issue with the Headquarters focal point prior to moving to Step 3. If any other thresholds are exceeded, go to step 4.

The thresholds are:

- Dollar Threshold: (*quantitative threshold*)
 - General: The environmental agreement or milestone can be accomplished within the affected Operations/Field Office's current/life cycle targets. EM-10 will issue current life cycle budget targets for each Operations/Field Office from the budget targets for EM received from the Office of Management and Budget.
 - Alternative: When existing agreements and milestones already exceed the Operations/Field Office's current/life cycle targets, the Operations/Field Office will inform the Assistant Secretary for Environmental Management of the specific year(s) and by how much existing agreements and milestones already exceed the targets. The Assistant Secretary for Environmental Management may approve an alternative dollar threshold for these specific years for that Operations/Field Office.

The purpose of gaining approval of an alternative threshold is not to change legally enforceable agreements, but rather to:

- Acknowledge realistic costs for completing milestones
- Circumvent unnecessary reviews and approvals
- Highlight areas where additional funding may be required

- C Current Baseline Change Control Thresholds by site - As change controls are modified or updated, these changes will be applied to this threshold (*quantitative threshold*)

- No significant policy or legal issues exist (*qualitative threshold*)
- Does not establish significant precedent or include provisions that could have complex-wide impact or affect activities at other sites. Frequent communication among the field focal point, Headquarters focal point, and EM-10 (who will review cross-cutting and complex-wide issues in their process oversight role) will foster sharing of information on significant precedents. (*qualitative threshold*)

- C No other Departmental sensitivities, interest, or concerns exist
(*qualitative threshold*)

When thresholds are exceeded, the field focal point will notify the headquarters focal point for action and EM-10 for information purposes. If the documents come to Headquarters, at a minimum, the Headquarters focal point should always ensure that the CFO and General Counsel are notified. Based on discussions with other Headquarters offices, the Headquarters focal point will determine which offices will need to concur in, or approve documents. Each office (e.g., General Counsel, CFO, EM-20, EM-50, etc.) receiving these documents is responsible for raising issues to the attention of their manager, as appropriate. Additionally, for sites/activities that are not EM sites/activities, senior management for the other Programs should be notified. The Headquarters focal point will resolve any issues, and confirm in writing to the field focal point, the approval of the document. EM-10 will track the status of the commitment document.

Step 3: Field informs HQ, as appropriate, and provides copies of documents to HQ, as requested by HQ

In instances where thresholds are not exceeded, the field focal point:

- C Obtains funding availability statement from the appropriate field authority, as determined by the field (see Appendix B)
- C Ensures coordination with the appropriate Headquarters focal point in accordance with protocols established by the line program offices
- C Develops negotiation strategy, as appropriate
- C Negotiates commitment
- C Prepares and obtains field review and approval of document

Step 4: Negotiation strategy required?

The field focal point will consult the Headquarters focal point to determine the necessity for a negotiation strategy. At some sites, this is also referred to as ‘discussion strategy’. For purposes of this document, the term negotiation strategy will represent either a negotiation strategy or a discussion strategy. If it is mutually agreed that no written strategy is needed, the field focal point will provide a brief written description of their discussion to the HQ focal point, indicating why a written negotiation strategy is not needed. The documented narrative should be retained both in field and Headquarters focal point files (E-mails are acceptable).

Step 5: Field develops and submits negotiation strategy and revises as necessary per

Headquarters comments.

Field develops Negotiation Strategy and Initial Commitments List - The field focal point will ensure the preparation of a negotiation strategy (if needed, as described in Step 4). If necessary, the field focal point may initiate preliminary discussions with regulators, prior to developing a strategy, to obtain their general reaction of the need for the proposed agreement, its overall scope, and a negotiation schedule. Field offices should not make commitments during any preliminary discussions with the regulators. The field focal point should discuss with the field counsel whether the negotiation strategy should be prepared by, or under the supervision of field counsel, and thus be subject to attorney-client privilege.

The negotiation strategy should be concise and, where possible, limited to two to four pages. Major revisions to large agreements may necessitate larger, more complex negotiation strategies. The negotiation strategy shall include the following information:

- **Background:** Discussion of pertinent background issues, such as type of agreement, circumstances leading to the need for the agreement, actions to date, proposed signatories.
- **Statement of Interests:** The Department of Energy's interests and the regulator's interests should be described. as a basis for establishing negotiating positions, and defining the difference between positions.
- **Negotiation Positions:** The Department of Energy's negotiating positions should be described. The difference between any positions should be discussed..
- **Scope and Milestone Approach:** Description of the general scope of the activities and commitments proposed for the agreement, proposed approach for establishing milestones, and potential alternatives, as appropriate.
- **Issues and Impacts:** Any anticipated major technical, legal, complex-wide, policy issues/impacts, applicable legal requirements, and any relevant precedents (previous agreements), or special sensitivities (Congress, stakeholders, etc.) and the field office's proposed approach for addressing them.
- **Budget/Cost:** Description of impacts related to implementation cost, life cycle cost, and budget and an approach for addressing budget impact.
- **Negotiation Team and Schedule:** List of field office negotiation team members, their organizations, and phone numbers, and a proposed schedule for beginning and ending negotiations. The schedule should include and allow for stakeholder involvement, as needed.

Headquarters may request that additional information be included in the negotiation strategy, as appropriate.

Field submits strategy to Headquarters for approval - The field focal point will submit the negotiation strategy to the Headquarters focal point for approval. In general, the Headquarters focal point should provide the field with headquarters approval within two to five working days (this time frame is subject to a mutually agreed upon modification by both focal points). The field focal point will also send a copy of the negotiation strategy to EM-10 in view of its process oversight and management role.

Headquarters review and approval (Revision of strategy as required) - Consistent with the determination in Step 2, the Headquarters focal point will determine who at Headquarters will approve or concur in the negotiation strategy in consultation with those offices. The focal point will provide these offices with a copy of the negotiation strategy for concurrence. It is at this point, the Headquarters focal point determines who will be involved with approval and concurrence in the final document which occurs in Step 13.

Upon approval, the Headquarters focal point will provide the field focal point written approval (E-mail is an acceptable form of approval verification), advising the field focal point of the anticipated Headquarters concurrence chain for the commitment document.

Step 6: Field develops draft commitment document and submits to Headquarters for comment.

The field develops a draft commitment document in accordance with the approved negotiation strategy. In certain cases, a draft commitment document may already have been developed by the regulator.

Commitment documents include new/changed environmental agreements and new/changed milestones.

The document will be used as a basis to start the negotiation process.

The field focal point leads/oversees the development of the initial draft commitment document. The field focal point should consult with Headquarters focal point as the initial draft commitment document is developed. The Headquarters focal point should then keep the appropriate EM offices and other Headquarters offices informed. Field focal points should use previously approved agreements as models for developing the initial draft commitment document. The field focal point should provide the Headquarters focal point an opportunity to comment on the initial draft commitment document before submitting it to the regulators.

Step 7: Field commences discussion/negotiation.

The field office begins the discussion process with regulators.

Steps 8a and 8b: Field interactions with regulators/Headquarters interface, review, and comment.

These two efforts run in parallel and continual interaction between the field and headquarters occurs during this time.

Step 8a: Field interactions with regulators - The field office interacts with regulators during the discussion process. Throughout the discussion process, the field focal point will provide the Headquarters focal point, as appropriate, an opportunity to review any new language for review of major issues.

Step 8b: Headquarters interface, review, and comment - Headquarters program offices will review the draft environmental agreement and milestone documents. At the beginning of the negotiation process, the Headquarters focal point shall contact other Headquarters offices (e.g., General Counsel, CFO, other EM DAS's, etc.) to discuss the support of those offices in negotiations, as appropriate.

The need for (and the extent of) Headquarters participation in negotiations will be determined through discussions between the field focal point and Headquarters focal point. The Headquarters focal point may attend the negotiation sessions to represent Headquarters views, monitor progress, and coordinate issue resolution with other Headquarters offices.

Step 9: Field submits tentative commitment document and supporting analyses to Headquarters.

Based on negotiations with regulators and ongoing discussions with field senior management and the Headquarters focal point, the field focal point will ensure development of a tentative commitment document and appropriate supporting analyses, for Headquarters review and approval. The field focal point shall submit the tentative commitment document to the Headquarters focal point, and to EM-10.

If the field is unable to make a funding availability statement, the field will submit a waiver request. This will be sent to the cognizant Deputy Assistant Secretary and the Assistant Secretary for Environmental Management.

The field focal point and Headquarters focal point should agree upon a reasonable amount of time to review and approve the tentative commitment document, taking into consideration the length and complexity of the document. In general, the Headquarters focal point should provide the field with headquarters approval within two to five working days (this time frame is subject to a mutually agreed upon modification by both focal points). The Headquarters focal point should work with other Headquarters offices to determine achievable review times. The field focal point and Headquarters focal point should also discuss and agree upon the level of detail and amount of information included in the supporting analyses. To help expedite Headquarters review field offices should identify areas that may be of special interest or concern to Headquarters. These may include, but are not limited to:

- C Budget impacts and funding requirements issues

- C Changes to model language or previously acceptable language on milestones
- C Issues requiring need to invoke dispute resolution
- C Language that would limit DOE's authority to ship materials among field offices or otherwise have impacts beyond a single field office
- C Language that would limit the Department's ability to exercise authority otherwise provided to DOE under law
- C Provisions that could adversely affect project or milestone completion schedules

The field focal point should work with the Headquarters focal point as enforceable milestones and target dates for the new/changed environmental agreements are negotiated to identify the level of Headquarters review needed. The enforceable milestones and target dates should be negotiated to provide adequate time for DOE review of the deliverables in the document, prior to submittal to the regulatory authorities.

Step 10: Headquarters reviews tentative commitment document

The Headquarters focal point will circulate the tentative commitment document to Headquarters offices, consistent with the determination in Step 2. The Headquarters focal point will determine who at Headquarters will approve and who will concur in the tentative commitment document. The Headquarters focal point will provide these offices with a copy of the tentative commitment document for concurrence.

Step 11: Are there unresolved issues?

There are three options for addressing unresolved issues:

- C If the Approving Official agrees with the commitment document, and determines that thresholds are not exceeded, proceed to Step 12. The Headquarters focal point will notify the field focal point in writing as to their acceptability (e-mail is acceptable).
- C If a waiver has been issued by EM-1 for dollar thresholds, and no other qualitative thresholds are exceeded, proceed to Step 12. The Headquarters focal point will notify the field focal point in writing as to their acceptability (e-mail is acceptable).
- C If the Approving Official determines that the field office and regulator resolution of an issue is not acceptable, then the field office will need to renegotiate a resolution to the issue with the regulator (proceed to Step 7). If the field office and regulator, in conjunction with Headquarters, cannot resolve the issue, they may have to initiate an

administrative process in accordance with the regulatory requirements (e.g, RCRA, CERCLA, Court Orders, etcetera).

Step 12: Stakeholder involvement and resolution of stakeholder issues, as appropriate.

Recognizing EM's commitment to establishing a strong partnership with its stakeholders, field focal points should work with their local regulatory authorities and, where applicable, Site-Specific Advisory Boards, to develop a process for involving stakeholders (other than regulators) in the development and review of environmental agreements and milestones, as appropriate. The appropriate level of involvement will depend on a number of factors, including the level of public interest, the need for stakeholder input on site priorities, and the requirements of the law under which the environmental agreements or milestones are being negotiated (e.g., in some instances, the law may require public comment on the document). At the field focal points discretion, they may involve stakeholders earlier in the process, if appropriate.

Participation of Tribal Nations should be in accordance with the April 25, 1994, memorandum entitled "Inclusion of Tribal Nations in Enforceable Agreement Negotiations." Field focal points should actively and directly involve any potentially affected Tribal Nations in all significant negotiations.

As a result of outreach activities, the field focal point will:

- C Review the stakeholders' comments
- C Work with regulators to resolve them, as appropriate
- C Forward comments of national importance or complex-wide significance to the Headquarters focal point who will take appropriate follow-up actions.

If public comments cause either DOE or regulators to determine that further revision is necessary, both organizations will reopen negotiations or the issue resolution process. If neither party proposes substantive revisions, a comment response document, if any, should be prepared and provided with the final commitment document.

Step 13: Field submits final commitment document and field funding certification statement to Headquarters

At the conclusion of the stakeholder process, if any, the field focal point prepares a final commitment document and supporting package, obtains the necessary field management concurrences, and submits it to the Headquarters focal point. The field focal point will also send a copy of the final commitment document to EM-10 in view of its process oversight and management role. This package will include:

- a funding availability statement or funding waiver from the appropriate field authority, as determined by the field (see Appendix B)

- Final commitment document
- Public comment response document, as appropriate

Step 14: HQ approval

Based on the nature of the draft agreement or draft milestones, and consistent with the determination in Step 2, the Headquarters focal point will determine who at Headquarters will approve and who will concur in the final commitment document. The Headquarters focal point will provide these offices with a copy of the final commitment document for concurrence and/or approval. Upon approval, the Headquarters focal point, in consultation with the other Headquarters offices will notify the field focal point in writing, for field signature and implementation.

For new agreements, the concurrence package distributed by the Headquarters focal point will include a:

- C Draft action memorandum to the Assistant Secretary for Environmental Management, or designee
- C Draft memorandum from the Assistant Secretary for Environmental Management, or designee, to the Field Office Manager, or designee, providing the manager, or designee, approval to sign and execute the document

In the event that issues arise which cause the environmental agreement or milestones not to be approved, return to Step 7.

Step 15: Field performs work.

Field signs and implements the requirements of the environmental agreement. The field focal point obtains field management and regulator signatures on the document and provides copies of the signed document to the Headquarters focal point and EM-10. New/modified milestones will be reported in the Integrated Planning, Accountability, and Budget System (IPABS).

4.0 Roles and Responsibilities

This section lists roles and responsibilities in four general categories: field focal points, Headquarters focal points, EM-10, and other Headquarters offices. Field focal points, Headquarters focal points, and other Headquarters offices are involved with the document review and approval aspect of this Guidance. EM-10 is involved with the implementation oversight and management aspects of this Guidance. At the discretion of the field focal points and Headquarters focal points, other offices may be involved in the review and approval of environmental agreement or milestones.

4.1 Field Focal Point

The field focal point is the Assistant Manager for Environmental Management (AMEM) or equivalent, at the field office, or the AMEM's designee. Field focal points are responsible for:

- C Identifying new agreements, changes to agreements or any associated milestones covered by this Guidance
- C Determining whether commitments meet or exceed thresholds for Headquarters involvement, included in Step 2 of the process
- C Coordinating with Headquarters focal point and field senior management, as appropriate (e.g., for non-EM sites, cross-cutting issues, significant issues, etc.)
- C Performing the following function in cases where the milestones or environmental agreements do not meet thresholds:
 - Obtaining a funding availability statement from an individual designated by each site, and to be retained for their own records
 - Involving field counsel and field senior management, as appropriate (e.g., for non-EM sites, cross-cutting issues, significant issues, etc.)
- C Familiarity with the law and pertinent regulations under which the agreement is authorized (e.g. CERCLA, RCRA, Clean Air Act)
- C Developing or overseeing development of negotiation strategy, as appropriate, and sends to HQ
- C Forwarding negotiation strategy to Headquarters focal point, as appropriate
- C Developing or overseeing development of the draft commitment document

- C Negotiating or overseeing negotiations with regulators
- C Developing tentative commitment document and supporting analysis
- C Sending tentative commitment document and supporting analysis to Headquarters focal point
- C Sending copies of the negotiation strategies, tentative commitment documents, and final commitment documents to EM-10, for the purpose of overseeing implementation of this process. EM-10's primary role will be to develop corporate statistics and corporate knowledge.
- C Resolving issues with and obtains confirmation from Headquarters focal point
- C Involving stakeholders and resolving stakeholder issues, as appropriate
- C Ensuring development and submittal of final commitment document and field funding availability statement (or funding waiver) to Headquarters

4.2 Headquarters Focal Point

The Headquarters focal point is the Office Director (OD), or OD's designee under the Deputy Assistant Secretary (DAS) with responsibility for a particular field office. The Headquarters focal point is responsible for:

- C Receiving notification by the field focal point and discussing the need for Headquarters involvement
- C Reviewing and approving field negotiation strategy, as appropriate, and assuring a timely and integrated Headquarters response and input into the negotiation process
- C Informing other Headquarters offices, as appropriate (the field is responsible for notifying their PSO in those cases where this is different from EM)
- C Being familiar with the law and pertinent regulations under which the agreement is authorized (e.g. CERCLA, RCRA, Clean Air Act, and state and local regulations at the specific field sites)
- C Interfacing with field focal point during negotiation

- C Reviewing tentative commitment document and providing comments
- C Working with the field office focal point to resolve issues with tentative commitment document and approving it
- C Receiving statement of funding availability, reviewing, and approving (or obtaining approval for) final commitment document

4.3 EM-10

The Office of Planning and Budget (EM-10):

- C EM-10's primary role will be to: oversee implementation of the guidance process; develop corporate statistics; and maintain corporate knowledge.
- C The field focal point will send copies of the negotiation strategies, tentative commitment documents, and final commitment documents to EM-10.
- C Maintains status of all on-going regulatory actions
- C Maintains list of all field and Headquarters focal points, as updated by respective office
- C Monitors funding availability statement process implementation
- C Ensures repositories of environmental agreements and milestones are maintained and properly updated in a timely manner
- C Identifies and evaluates lessons learned to enhance Guidance or implementation of the Guidance
- C Serves as clearing house for related issues that do not fall under this Guidance, but would benefit DOE if they were addressed (e.g., periodic complex-wide regulator/DOE meetings; integrating aspects of this Guidance with other major DOE Program Offices, etc.)
- C Updates Guidance, as needed, based on communication and interaction with field offices and Headquarters regarding the implementation of Guidance, or as directed by Headquarters senior management

4.4 Headquarters Elements

The following Headquarters elements may be consulted either by the Headquarters focal point and/or the field focal point. This list should not be construed as all inclusive. Other Headquarters elements may be consulted, as appropriate.

- C Office of the Secretary (OSE)
- C Office of General Counsel (GC)
- C Office of the Chief Financial Officer (CR)
- C Office of Environment, Safety, and Health (EH)
- C Office of Congressional and Intergovernmental Affairs (CI)
- C Office of Public Affairs (PA)
- C Program Secretarial Officers (e.g., NNSA, SC, etc.)

The Responsibilities of personnel in the Headquarters elements include:

- C Review and Approval/Concurrence of documents received from the Headquarters focal point
- C Raising issues to senior management, as appropriate

5.0 Management and Oversight

5.1 Repository of Agreements

A repository, available electronically, of all environmental agreements and related milestones covered by this Guidance will be maintained. EM-10 will have oversight responsibility to ensure all environmental agreements and milestones in the repository are kept up-to-date.

5.2 Implementation

Knowledge of, and proficiency in implementing this Guidance will be required for:

- C Field focal points
- C Headquarters focal points
- C All individuals with review or approval responsibility

Individuals currently having review, approval, or focal point responsibilities should be knowledgeable and proficient in implementing this Guidance.

5.3 Process Oversight

EM-10 is responsible for the oversight of successful implementation of this Guidance. In support of this, all field focal points and Headquarters focal points will provide EM-10 with:

- C The names, organization, and phone numbers of individuals identified as focal points
- C Focal point changes
- C A copy of all negotiation strategies or draft agreements (for use in ensuring an updated repository and for analysis and tracking purposes)

5.4 Performance Tracking and Analysis

EM-10 will be responsible for performance tracking and analysis of environmental agreements and milestones at both the site and complex-wide levels. They will prepare annual reports including comparisons and trend analysis.

Appendix A:

Field and Headquarters Focal Points

Headquarters and Field Focal Points

Operations/Field Office:_____

Document

Signed &

HQ Focal Point/ Field Focal

Point/

Site

Revised

Document

Phone No.

Phone No.

Operations/Field Office:_____

Document

Signed &

HQ Focal Point/ Field Focal

Point/

Site

Revised

Document

Phone No.

Phone No.

Appendix B:
Funding Availability Statement/Waiver Process

Field Funding Availability Statement

I have reviewed the milestones and target dates contained in the environmental agreement and/or milestone document. Based on currently available information, current/life cycle target funding levels, issued by EM-10, are sufficient to meet these commitments.

Signature

Date

Request for Funding Waiver

I have reviewed the milestones and target dates contained in the environmental agreement and/or milestone document. Based on currently available information, target funding levels, issued by EM-10, are not sufficient to meet these commitments. I hereby request additional funding totaling \$_____ for fiscal year(s) _____, to fund _____.

[Detailed funding request by fiscal year, and justification should be attached]. I understand that this waiver must be approved by the Assistant Secretary for Environmental Management.

Signature

Date

Headquarters Approval

Cognizant Deputy Assistant Secretary,
Environmental Management

Date

Assistant Secretary for Environmental Management

Date